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April 15, 2013

BY ECF

Honorable David N. Hurd
United States District Court
Northern District of New York
Alexander Pirnie Federal Building
10 Broad Street
Utica, NY 13501-1233

Re: *Peter J. Nichols v. BAC Home Loans Servicing LP d/b/a Bank of America
N.A. & Select Portfolio Servicing, Inc.*, 13-cv-0224 (DNH) (RFT)

Dear Judge Hurd:

We represent defendant Select Portfolio Servicing, Inc. ("SPS") in the above-referenced matter. On March 22, 2013, we filed a motion to dismiss *pro se* Plaintiff's complaint as against SPS, returnable April 26, 2013. According to the motion schedule, Plaintiff's response to the motion was due on April 9, 2013. Plaintiff did not file a response to SPS's motion in a timely way. Plaintiff did file opposition on April 11, 2013. As the Court is aware, Northern District of New York Local Rule 7.1(b)(3) states that "[t]he Court shall not consider any papers required under this Rule that are not timely filed...unless good cause is shown." Plaintiff has not stated any cause for his late filing, let alone good cause. For this reason, we respectfully request that this Court not consider Plaintiff's untimely opposition papers and consider SPS's motion to dismiss an uncontested motion.

In the event that this Court is inclined to consider Plaintiff's late response, we respectfully request that the motion schedule be amended so that SPS has adequate time to respond to the new material Plaintiff presents in his untimely response. Plaintiff's late filing has created uncertainty as to whether SPS even needs to respond and has compromised SPS's ability to respond within the time originally allotted by the Court if a response is necessary.

Furthermore, from our conversations with counsel for co-defendant BAC Home Loans Servicing ("BAC"), we anticipate that BAC will file a motion to dismiss on Friday

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April 19, 2013, the date set forth in the Court's March 28, 2013 order extending BAC's time to answer or otherwise move in response to Plaintiff's complaint. Accordingly, if the Court is inclined to accept Plaintiff's late response, we ask that the Court reset the return date on SPS's motion to the same date as the return date for BAC's motion so that both dispositive motions may be heard and considered at the same time.

This is SPS's first request for any extension of time.

Respectfully submitted,



Joseph N. Froehlich

cc: Plaintiff
Peter J. Nichols
212 First Street
Scotia, NY 12302 (by U.S. Mail)